IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2072 OF 2007

Ashish Himmatlal Goradia ..Petitioners

Versus

Union of India & Ors. ...Respondents

Shri A.N. Jakhadi, for the Petitioner
Mr. R.G. Bhat with Mr. P.S.Sahadevan, for Respondent Nos.1 and 2.

Mr. M. Halai with Ms. Priya Agarwal i/b. Halai & Co., for Respondent No.3.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 23RD OCTOBER 2007

P.C.

. Rule. Heard forthwith.

2. The Respndent No.2 had served a notice on the petitioner under Section 226(3) of the Income Tax Act on 25th October, 2000 seeking recovery of the sum set out therein. The petitioner herein with reference to subsequent notice dated 14th February, 2001 filed reply dated 16th February, 2001 giving reasons as to why he should not be treated as in default. It appears that there has been exchange of correspondence and subsequently on 17th November, 2006 the respondent No.2 proceeded on the basis that the petitioner herein is a deemed defaulter and consequently the bank account of the petitioner in HDFC Bank have been attached. The savings Account Number is 24010000594565. This account is with HDFC Bank, Santoz House, Worli, Mumbai. Similarly there are two other accounts with the same bank at its Mharshi Karve Road

Branch, Opp. to Charni Road Station being Account No.351000012543 and Account No.356100001253. These accounts stand attached. It is pursuant to this that the petitioner has moved this Court.

3. We have heard the learned Counsel. Considering the provisions of Section 226(3)(vi) a party desirous of opposing the notice has to file an affidavit on oath raising his objections. This apparently was not done though the objections were filed by the petitioner. Apart from that the respondent No.2 after objections are received will have to pass an order accepting or rejecting the objections and in the event he rejected the application then to proceed to treat the petitioner as a deemed defaulter. Considering the above in our opinion the ends of justice will be met if the following order is passed:-

(i) The impugned order dated 17th November, 2006 is quashed and set aside. The petitioner herein to file his objections on oath by affidavit within 15 days from today before the respondent No.2. The respondent NO.2 thereafter to consider the same and pass appropriate order according to law in terms of what we have set out earlier.

(ii) On the facts and circumstances of the case the order of attachment of the three bank accounts mentioned above will continue till such time the respondent NO.2 passes a fresh order. That order to be passed in any way within three weeks from receiving the objections.

(iii) Rule made absolute accordingly. No order as to costs.

(J.P. DEVADHAR, J.) **(F.I. REBELLO**, J)